



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 5
 77 WEST JACKSON BOULEVARD
 CHICAGO, IL 60604-3590

JUL 26 2013

REPLY TO THE ATTENTION OF:

Douglas Harris, General Manager
 Veolia ES Technical Solutions, LLC
 7 Mobile Avenue
 Sauget, Illinois 62201

Re: Veolia ES Technical Solutions, LLC's Comprehensive Performance Test Plans for Incinerators 2, 3, and 4

Dear Mr. Harris:

The Clean Air Act, 42 U.S.C. § 7401 *et seq.* and the National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors, 40 C.F.R. Part 63, Subpart EEE (HWC MACT) require Veolia ES Technical Solutions, LLC (Veolia) to perform a comprehensive performance test (CPT) on or before September 5, 2013. I will not recap here the long history of communication between Veolia and the United States Environmental Protection Agency regarding the requirements of the HWC MACT in general and the CPT in particular. I understand now that, with the exception of two outstanding issues, as of July 19, 2013 Veolia and EPA have agreed to all provisions of the CPT and pertinent standard operating procedures. Accordingly, EPA stands ready to approve the CPT with the following understandings:

1. Nature of the Waste to be Burned during the CPT.

40 C.F.R. § 63.1207(g) and 40 C.F.R. § 63.7(e)(1) require Veolia to conduct performance testing at the extreme range of "representative operating conditions." Such conditions necessarily include the incineration of wastes representative of the type incinerated by Veolia on a regular basis. Veolia has proposed to incinerate liquid and solid wastes during the CPT which have never been previously incinerated at the facility and for which Veolia has no sampling data. The CPT must include, therefore:

- a. a condition requiring Veolia to provide to EPA, no later than 30 days prior to the CPT, a hazardous waste profile for each liquid or solid waste Veolia intends to burn during the CPT. Veolia may not make any changes to the waste it will incinerate during the CPT after providing EPA with the waste profiles;
- b. a condition requiring sampling and analysis of each solid and liquid waste used during the test every 15 minutes;
- c. a condition requiring Veolia to archive a sufficient portion of each 15 minute sample to allow further analysis; and

- d. a condition requiring Veolia to provide to EPA, no later than 5 days after receipt by Veolia, a copy of any analytical results performed on any liquid or solid waste used by Veolia during the CPT.

Please be advised that EPA will send to Veolia under separate cover a request for information concerning the nature of the wastes incinerated at the facility on a regular basis. With this information in hand, EPA will be in a position to determine whether the wastes burned during the CPT were indeed representative of normal conditions.

2. Test Conditions.

EPA had previously communicated to Veolia that maximum temperature must be a parameter of Condition 1 of the CPT. For purposes of this CPT only, EPA will allow normal temperature on Incinerators 2, 3 and 4 to be a parameter of Condition 1 on Incinerators 2, 3, and 4. Condition 2 of the CPT remains at minimum temperature. *See Attachment 1.*

As stated above, 40 C.F.R. § 63.1207(g) requires Veolia to conduct performance testing under operating conditions representative of the extreme range of normal conditions. "Normal conditions" at Veolia's facility include contemporaneously burning wastes that contain mercury (Hg) and wastes that contain components that lead to dioxin/furan (D/F) formation. Therefore, during the CPT, Veolia must operate the incinerator at normal and minimum temperatures with wastes and/or spike material containing both Hg and components that lead to D/F formation to represent extreme range of normal conditions.

3. Operating Modes.

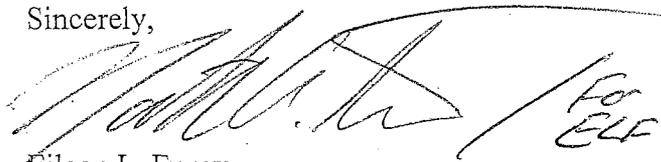
Veolia generally objects to having to perform the CPT under the two different operating conditions specified by EPA. 40 C.F.R. § 63.1207(f)(1)(xxvii) provides EPA with the authority to require "other information as the Administrator reasonably finds necessary to determine whether to approve the performance test plan."

The two test conditions required by EPA for Veolia's CPT are eminently reasonable. The CPT is the vehicle by which Veolia demonstrates that it is in compliance with the HWC MACT operating parameter limits during normal operating times. *See* 40 C.F.R. § 63.1207(b)(1). The HWC MACT recognizes that "given that [a hazardous waste incinerator] must establish limits for the applicable operating parameters specified in § 63.1209 based on operations during the comprehensive performance test," a facility "may conduct testing under two or more operating modes to provide operating flexibility." 40 C.F.R. § 63.1207(g)(1)(ii). EPA believes that Veolia cannot guarantee that it does not and never will contemporaneously incinerate waste containing both Hg and components that lead to D/F formation. The emission of Hg and D/F may be affected by temperature. Accordingly, both conditions of the CPT as developed by EPA are necessary to demonstrate that Veolia is in compliance with the HWC MACT operating parameter limits. (Attachment 1.)

Finally, you should be aware that EPA does not intend to grant any additional extension of the date for the CPT. Veolia's email of July 19, 2013 included irrelevant arguments regarding permitting procedures and EPA's authority. EPA is concerned that these objections are simply pretexts for delaying implementation of the CPT. EPA believes that Veolia's recalcitrance may well be due to Veolia's fundamental misunderstanding of when the CPT was due. EPA hopes that with the clarifications of the requirements of the CPT contained in this letter, the CPT can now proceed in accordance with the Clean Air Act's requirements.

If you have any questions regarding this response, please contact Shannon Downey of my staff at (312) 353-2151.

Sincerely,



For
ELF

Eileen L. Furey
Acting Chief
Air Enforcement and Compliance Assurance Branch

Enclosure